Daniel W. Nelson

Partner

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Daniel W. Nelson practices in the Litigation Department as co-chair of the Mass Torts and Product Liability Practice Group, and he is a member of the Class Action and Complex Litigation, Antitrust and Trade Regulation, and Appellate and Constitutional Law Practice Groups.

Dan has a national complex litigation practice. He has served as the lead defense counsel for clients in the courts of more than 30 states, and he has defended more than 200 class action lawsuits, including as lead trial counsel in securing a defense verdict in a certified class action jury trial. He has represented clients at the trial and appellate levels in cases that span a wide range of areas, with a particular focus on environmental and mass tort litigation, complex business litigation, antitrust litigation, and class action litigation.

Dan's litigation expertise and client service are widely recognized. The *National Law Journal* recognized Dan as a "trailblazer" in its first edition of *Energy & Environmental Trailblazers* for his innovative and effective strategies for resolving environmental mass tort litigation, and Dan has twice led Gibson Dunn's Washington, DC office to be named the Product Liability / Mass Torts Litigation Department of the Year by the *National Law Journal*. Dan was named one of *Lawdragon's* 500 Leading Litigators in America and a member of *Lawdragon's* Green 500: Leaders in Environmental Law. Based on surveys of corporate counsel, BTI Consulting Group has twice named Dan as a BTI Client Service All-Star. BTI recognized Dan for his "true thought leadership; innovation; creativity applied to the client; focused, practical problem-solving; valued counsel; responsiveness and accessibility; total commitment to the client."

Representative mass tort and environmental litigation experience:

- Secured a comprehensive multistate attorney general settlement on behalf of Mercedes-Benz USA LLC and Mercedes-Benz Group AG resolving environmental and consumer protection claims related to diesel emissions, following a coordinated investigation by 50 U.S. states and territories.
- Obtained summary judgment in favor of a national manufacturer in a 335-plaintiff toxic tort mass action lawsuit in federal court in Alabama, resulting in the dismissal of all plaintiffs' personal injury claims, the property damage claims of a majority of the plaintiffs, and all causes of action except for indirect trespass to property for a small group of remaining plaintiffs.
- Secured a defense trial judgment for a national construction company in a Florida state court toxic tort case alleging personal injuries from airborne chemical exposure.
- Successfully excluded all of plaintiffs' chemical fate & transport and medical causation experts in a 370-plaintiff toxic tort mass action lawsuit in federal court in Louisiana, which effectively ended the litigation.

Capabilities

Litigation
Antitrust and Competition
Class Actions
Environmental
Mass Torts and Product Liability

Credentials

Education

University of Michigan - 1993 Juris Doctor
Colgate University - 1990 Bachelor of Arts

Admissions

New York Bar
District of Columbia Bar

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- Obtained dismissal with prejudice of a civil penalty lawsuit brought by Hillsborough County, Florida, alleging that a global auto manufacturer violated mobile source emission rules.
- Following several favorable rulings, obtained a voluntary dismissal of a 200+ plaintiff mass action lawsuit in South Carolina federal court alleging that air emissions from a manufacturing facility caused personal injuries and property damages.
- Led successful efforts to exclude plaintiffs' medical causation expert testimony and to narrow chemical fate & transport expert testimony in a Texas state court civil penalty action seeking over $1 billion in penalties relating to alleged releases from a historic disposal site.
- Obtained summary judgment in a toxic tort class action in federal court in St. Croix after mounting a successful *Daubert* challenge to plaintiffs' experts.
- Obtained a highly favorable resolution of a toxic tort mass action in federal court in Nebraska alleging that a manufacturer's historic waste disposal practices contaminated the groundwater and caused personal injuries and property damages following several favorable rulings, including a decision limiting medical monitoring to only individuals with a present physical injury—an issue of first impression under Nebraska law at the time.
- Favorably resolved three toxic tort mass action lawsuits in Texas state court involving 700+ plaintiffs who alleged that releases from two historic disposal sites along the San Jacinto River contaminated the river and groundwater and caused personal injuries and property damage.

Representative class action experience:

- Obtained jury verdict in favor of an industrial landowner in a certified class action in the Northern District of Florida alleging that the company's negligence caused massive flooding when a water retention structure failed during a storm event.
- Lead counsel in negotiating an innovative $700 million class action settlement on behalf of an international auto manufacturer that was synchronized with parallel regulatory settlements and was characterized by the *New York Times* as "a fraction of what Volkswagen paid." *In re Mercedes Benz Diesel Emissions Litigation*.
- Defeated class certification in a putative nationwide class action filed in federal court in New Jersey on behalf of tens of millions of consumers who alleged that a Fortune 50 consumer products company engaged in deceptive marketing and product labeling practices.
- Defeated class certification in a 1500+ member putative class action alleging that ongoing air emissions from an Alabama pulp and paper mill caused various personal injuries and property damages.
- Defeated class certification in a 500+ member putative class action alleging that fugitive coal ash from an industrial facility in Florida caused personal injuries and property damage.

Representative commercial and insurance litigation experience:

- Obtained a $93.6 million award in favor of clients in a breach of contract arbitration.
- Defended a national REIT in a breach of contract arbitration that resulted in an award of only $1 in nominal damages for several multi-million dollar breach claims.
- Achieved dismissal of all claims against various insurance companies in more than a dozen putative class actions arising out of Hurricane Katrina. Several of these cases involved successful appeals to the United States Court of Appeals for the Fifth Circuit, including *Hibbets v. Lexington Insurance Co.*, 2010 WL 1778953 (5th2010 May 4, 2010); *In re Katrina Canal Breaches Lit.*, 295 F.3d 191 (5th 2007); *Chauvin v. State Farm Fire & Casualty Co.,* 495 F.3d 232 (5th Cir. 2007). In

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addition to these class action victories, Dan also secured the Fifth Circuit's reversal of a $20 million judgment for business interruption losses and bad faith penalties in *Conco v. Lexington Insurance Co.*, 2010 WL 3223137 (5th Cir. Aug. 17, 2010).

- Representing national health insurer in several mass action lawsuits challenging reimbursement practices.
- Served as lead trial counsel in multiple South Carolina asbestos lawsuits alleging that a national insurer bore alter ego liability for claims against a defunct insulation business.

Representative antitrust litigation experience:

- Achieved dismissal of all claims against a major paper and forestry products manufacturer in more than a dozen federal and state price-fixing class actions.
- Obtained dismissal of all claims against a large pharmaceutical manufacturer charged with participating in an unlawful conspiracy and attempt to monopolize the "secondary market" for drug distribution.

Dan has previously served as a Member of the Firm's Management Committee and Executive Committee, and he was a co-partner in charge of the Washington, DC office from 2011 – 2018. Dan earned his law degree, with honors, in 1993 from the University of Michigan Law School. He received a Bachelor of Arts degree *magna cum laude* from Colgate University in 1990. He is a member of the bar associations of the District of Columbia and New York State, and he is admitted to practice before numerous federal district and appellate courts.

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